

EXHIBIT H

1 SUPERIOR COURT OF NEW JERSEY
2 LAW DIVISION; MIDDLESEX COUNTY

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4 DWAYNE JOHNSON,
5 Plaintiff, Docket No.
6 v. MID-L-6651-16AS
7 AMERICAN INTERNATIONAL
8 INDUSTRIES, INC., et al.,
9 Defendants.

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14 SUPERIOR COURT OF NEW JERSEY
15 LAW DIVISION; MIDDLESEX COUNTY

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17 MARGARET ROSE LANGLEY LASHLEY
18 and EDWARD GENE LASHLEY,
19 Plaintiffs, Docket No.
20 v. MID-L-7336-16AS
21 AMERICAN INTERNATIONAL
22 INDUSTRIES, INC., et al.,
23 Defendants.

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January 15, 2020

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Videotaped deposition of

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JACQUELINE MOLINE, MD, held at 175

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Community Drive, Great Neck, New York,

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commencing at 10:00 a.m., on the above

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date, before Marie Foley, a Registered

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Merit Reporter, Certified Realtime

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Reporter and Notary Public.

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14 **ALSO PRESENT:**

15 Eileen Shimizu, Ph.D., Lathrop Gage

16 Marcello Rivera, videographer

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12 EXHIBITS WITH ORIGINAL TRANSCRIPT

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1 about that.

2 Q. You mention the Bell case.

3 That's another case arising out
4 of North Carolina that you were retained
5 as an expert in, right?

6 A. Correct.

7 Q. Are you still an expert in the
8 Bell case?

9 A. I don't know if the case is
10 resolved or not. So I don't know it's a
11 present tense or past tense.

12 Q. You wrote a report in the Bell
13 case, right?

14 A. I did write a report in the Bell
15 case.

16 Q. And in your article that you did
17 with Dr. Gordon, you talk about 33 cases,
18 right?

19 A. Yes.

20 Q. Was Bell one of the 33 cases?

21 A. I am not discussing the
22 individuals included in any of the case --
23 in any of -- in the article.

24 Q. Well, but the individuals in the

1 article are all individuals that filed
2 lawsuits, and the reason that you're --
3 you know about them is because you were an
4 expert witness in their case, right?

5 MS. KAGAN: Argument;
6 foundation.

7 A. That is correct.

8 Q. So, you weren't the treating
9 physician for any of the 33 patients that
10 were included in your article, right?

11 A. Correct.

12 Q. Whatever information you had
13 from your article you got from deposition
14 transcripts and other legal documents
15 associated with the case, right?

16 A. Or an in-person interview, if I
17 had the opportunity to meet them.

18 Q. So, why can't you tell me
19 whether the Bell case was one of the cases
20 that you included in your article?

21 A. Because the individual names
22 and -- are covered under research
23 protections for confidentiality.

24 Q. Are covered by, I'm sorry? What

1 Q. You said many of them learned
2 about it for the first time then.

3 How did the others learn about
4 it for the first time?

5 A. I may have, in the course of --
6 once the paper was accepted, before it was
7 actually out, I may have told people that
8 there was a paper coming out, but they
9 didn't have a copy of it.

10 Q. So, you may have discussed the
11 fact that you were doing a paper, but you
12 didn't send it to anyone?

13 A. I didn't discuss it that I was
14 doing a paper. I discussed that I did a
15 paper. There's a big difference.

16 They weren't informed that a
17 paper was done until it was done and it
18 had been accepted. So, once the paper was
19 accepted, I informed people that there was
20 a paper that was forthcoming.

21 Q. And you didn't have to -- you
22 didn't have to ask permission from the
23 lawyers who sent you the information to
24 use that information in something other

1 than the lawsuit in which they hired you?

2 A. I did not ask permission.

3 Q. And this says that it was done,
4 on page 5 it says: Study conducted with
5 approval from the Northwell Health
6 Einstein Institute For Medical Research,
7 number whatever, number 18-0225FIMR.

8 What does that mean?

9 A. It means that we submitted our
10 protocol to the Northwell Health
11 Institutional Review Board that governs
12 research on -- in papers and things like
13 that involving individuals.

14 Q. Now, I thought -- I thought you
15 told us earlier that there was not a
16 protocol.

17 Was it -- what kind of protocol
18 did you submit?

19 MS. KAGAN: Mischaracterizes and
20 argument as to the preamble.

21 MR. THACKSTON: Well, let me
22 withdraw that and rephrase it.

23 BY MR. THACKSTON:

24 Q. I asked you earlier if there was

1 a protocol that you followed for making
2 the determination of whether someone was
3 exposed to asbestos and you said no, but
4 you submitted a protocol to the -- to your
5 employer, I guess.

6 What kind of detail did the
7 protocol that you submit contain?

8 MS. KAGAN: Objecting to the
9 preamble as mischaracterizes and
10 argument.

11 A. It's a -- it's filling out forms
12 with respect to what the conduct of a
13 particular project is going to be. It's a
14 standard form used in all studies that are
15 conducted saying what you plan to do, and
16 then the Institutional Review Board meets
17 to discuss whether there is -- the
18 research is being conducted in a way to
19 protect patients, or whether it -- the
20 benefits outweigh the risks. If you're
21 doing a clinical trial, you have to get
22 your study approved. It's the same
23 Institutional Review Board.

24 Q. Could -- for the -- for the

1 materials that you relied upon for your
2 conclusions that the subjects were not
3 exposed to asbestos other than through
4 cosmetic talc, couldn't you make those
5 materials available and just redact the
6 personal identifying information?

7 A. I don't know if that would be
8 considered allowable, and I would have
9 to -- it would involve a lot of
10 redactions. I don't know if that would be
11 considered allowable.

12 MS. KAGAN: What is or is not
13 considered allowable for the release
14 of this information should be taken up
15 with the Northwell and Mount Sinai
16 lawyers, not what Dr. Moline feels
17 like doing.

18 MR. THACKSTON: Object to the
19 sidebar.

20 BY MR. THACKSTON:

21 Q. From a -- from a -- from the
22 standpoint of transparency in the
23 information that you relied upon, amount
24 of effort aside, you could create a link

1 that said, Here's the discovery
2 information that I relied upon to reach
3 the conclusion that these people had no
4 other exposure to asbestos, right? 'Cause
5 this is all material that was -- defense
6 lawyers had during the course of the
7 cases, right?

8 MS. KAGAN: Pre -- objection to
9 the preamble. And then objection to
10 the seemingly unrelated question;
11 foundation; argument;
12 mischaracterizes.

13 MR. THACKSTON: I hate to say
14 it, but that's right. It's compound.
15 So let me just back up.

16 BY MR. THACKSTON:

17 Q. The information that you used
18 to -- to write your paper was all
19 information that was in the possession of
20 defense lawyers during the case that you
21 were involved in, right?

22 A. I would assume so, yes.

23 Q. Have you -- have you ever
24 written a report in a case and then found

1 C E R T I F I C A T E

2 STATE OF NEW YORK

3 COUNTY OF NEW YORK

4

5 I, Marie Foley, RMR, CRR, a
6 Certified Realtime Reporter and Notary
7 Public within and for the State of New
8 York, do hereby certify:

9 THAT JACQUELINE MOLINE, MD, the
10 witness whose deposition is hereinbefore
11 set forth, was duly sworn by me and that
12 such deposition is a true record of the
13 testimony given by the witness.

14 I further certify that I am not
15 related to any of the parties to this
16 action by blood or marriage, and that I am
17 in no way interested in the outcome of
18 this matter.

19 IN WITNESS WHEREOF, I have20
hereunto set my hand this 23rd day of
21 January, 2020.

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MARIE FOLEY, RMR, CRR